

April 22, 2004

Ms. Barbara Morales  
Senior Environmental Planner  
Bureau of Environmental Services  
Room 508, City Hall Building  
810 Union Street  
Norfolk, Virginia 23510

Dear Barbara:

As a follow-up to our phone conversation last week I wanted to outline the Chesapeake Bay Local Assistance Department's (CBLAD) current position on drainage ditches. A number of Hampton Roads localities, including Norfolk, have expressed concern over how the Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations) apply to drainage ditches that are a component of a locality's overall stormwater management system.

Section 9 VAC 10-20-130.1.e of the Regulations address requirements for flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed. In addition, the guidance document "Determinations of Water Bodies with Perennial Flow" further clarifies these requirements. However, this section of the Regulations applies to ditches that are components of a comprehensive local stormwater management program that has been reviewed and approved by the Chesapeake Bay Local Assistance Board (CBLAB). When the regulations and the guidance were adopted, they were written to apply to new ditches that are created as part of a stormwater management system, not to existing ditches. As of the date of this letter, the City has not submitted a comprehensive stormwater management program to us for review.

The determining factor for existing ditches, and whether they require a buffer is the conveyance of perennial flow. If the existing stormwater ditches in the City of Norfolk convey perennial flow they should be buffered. However, should the City decide to submit a comprehensive stormwater management program to the Board for consideration, then consideration should be given to how existing ditches function within that overall

system. The submitted program should describe the function of existing stormwater ditches, how they contribute to improvements in water quality, if at all, and how they will be maintained in proper functioning condition. The program submission should also describe how the stormwater system/program protects water quality and, if it diverges from the basic requirements in the regulations, the submission should demonstrate and calculate how equivalent or better results are achieved. Once the Board approves the City's stormwater management program, the City may be granted more flexibility regarding requirements for existing stormwater drainage ditches. CBLAD would welcome such a submission if the City believes there may be a benefit.

It is my understanding that the City of Norfolk currently requires such ditches to be buffered, and that the City's primary concern is that the legality of these buffers may be called into question by a future developer. In such a case, the City, or applicant, should conduct a site-specific determination of the ditch in question for perennial flow. As stated above, if the ditch conveys perennial flow, then it is required to be buffered. Therefore, the Department suggests that the City continue to enforce their current buffer requirements.

The Department does plan on evaluating the issue of stormwater management ditches further. We are currently trying to schedule a field visit in order to provide CBLAD staff and Board members an opportunity to assess the situation in the Hampton Roads region. You should be contacted shortly regarding this effort. In the meantime, if you have any questions feel free to contact me at (804) 371-6221 or via email at [ryan.link@cblad.virginia.gov](mailto:ryan.link@cblad.virginia.gov).

Sincerely,

Ryan M. Link, AICP

cc: Lee Rosenberg, City of Norfolk  
Scott Crafton, CBLAD  
Martha Little, CBLAD